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30 MAR 1977

MEMORANDUM FOR: Assistant for Information, DDA

FROM : James H. McDonald
Director of Logistics

SUBJECT : Agency Relations with the U. S. Business
Community: Recommendations of the
Inspector General

REFERENCE : (a) Memo dtd 27 Feb 77 to Multiple Addressees
fm A-DCI, same subject (ER 77-011/3)

(b) Memo dtd 9 Mar 77 to D/L and D/Pers fm
AI/DDA, same subject (DDA 77-1310;
OL 7 1113)

1. Reference (a) provided approval or disapproval on IG recommendations included in the subject November 1976 inspection report as well as certain instructions for action. Reference (b) requested action by the Directors of Logistics and Personnel and feedback to facilitate a consolidated reply on behalf of the DD/A. This memorandum is an interim report of progress to date and actions planned. The paragraphs which follow report on individual recommendations for which the Director of Logistics has responsibility.

2. Recommendation 3: That CIA commitment to the principle of competitive contracting be reaffirmed, beginning with a policy statement from the DCI.

Approved: The DDA, in coordination with the DDS&T, should submit a statement for my approval within 60 days which is appropriate for inclusion in Agency regulations.

Action: A statement has been prepared for signature by the DD/CI which is being routed through the DD/S&T for coordination. [] has also been revised to include

OL 7 1382

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the statement prepared for the DDCI and is in coordination. Unless there is additional tasking, we consider that all action is complete. The statement for the DDCI, revised [] and a memorandum from the DD/A to the DDCI have been forwarded to you.

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3. Recommendation 4: That OL review all existing training and find new ways to emphasize the legal basis, the desirability, and methods of promoting competitive contracting; and that both contracting officers and requirements officers be exposed to this training.

Approved: The DDA should submit a report to me on the findings and action taken.

Action: The action described above for Recommendation 3, i.e., promulgation of a policy statement from the Agency Head affirming commitment to the principle of competition, is an important first step in meeting requirements of this recommendation. The following additional steps are planned:

- | | |
|---|----------|
| a. Review applicable external Federal Government laws and regulations in the area of competition and source selection methods. | 30 April |
| b. Identify deficiencies in existing Agency procurement regulations in the area of source selection and preparation of Requests for Proposals (RFPs). | 15 May |
| c. Develop Headquarters regulations for source selection and preparation of RFPs. | 15 June |
| d. Establish feedback mechanism on compliance with regulations on source selection and preparation of RFPs. | 15 June |

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- e. In conjunction with the Office of Training, establish an in-house training program which will cover preparation of RFPs and source selection which are at the heart of the competitive process. 30 June

4. Recommendation 6: That OL articulate guidelines for contracting officers, expanding on those now in existence, to define types of situations where sole-source procedures are proper for the Agency.

Approved: The DDA should incorporate the expanded guidelines into Agency regulations.

Action: With all due respect to the IG, OL would like to reclaim this recommendation. Our Contracting Officers are well aware of those types of situations in which sole source procurement is appropriate. Recommendation 3 recommends that the DDCI reaffirm our Agency commitment to the principle of competition. Recommendation 4 continues the action begun in Recommendation 3. OL concurs with both of these recommendations and is moving toward full implementation. We feel that promulgation of criteria for justifying sole source procurements would be counterproductive in that it might tend to encourage sole source buying and negate benefits we will achieve through Recommendations 3 and 4.

5. Recommendation 7: That CRB (Contract Review Board) proceed, as we are informed OL intends, to review production and other contracts in the same way it does DDS&T's contracts.

Approved: It is understood that the Board's jurisdiction will continue to be limited to Agency contracts and not those of national programs. The DDA should consider raising the dollar threshold for review in light of the Board's expanded jurisdiction.

Action: Action has been completed. A copy of Procurement Note No. 100, which accomplishes approved action, is attached for your information.

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6. Recommendation 8: That OL review its Table of Organization in comparison to comparable Government organizations as well as its distribution of professionals noted in Attachment D, (Section D of Attachment to IG's Report) with a view toward possible increases in personnel numbers and grade levels.

Approved: I understand the recommended review has been completed within the Office of Personnel. The DDA should inform me of the results of that review and provide any recommendations within 30 days.

Action: OL is responding to preliminary OP/PMCD recommendations based on a survey of OL/PD and OL/PMS. OL is taking no other action since, as noted in DD/A comments to the IG regarding this recommendation (DDA 76-6268), this is an Office of Personnel responsibility.

7. Recommendation 9: That a systematic and consistent Agency procedure be established to insure that the contracting officers' participation is solicited at the earliest time in the pre-proposal process; and that source-selection be organized in a way that recognizes the independent responsibilities of the contracting officer, in accordance with the Armed Services Procurement Regulations.

Approved: The DDA, in coordination with the DDS&T, should develop guidance on these points which should then be incorporated into Agency regulations.

Action: Those actions listed above as planned for meeting the requirements of Recommendation 4 will satisfy this requirement.

3. OL will forward its next progress report on actions planned herein on 30 April unless direction to the contrary is received.

James H. McDonald

James H. McDonald

Att

25 MAR 1977

REVIEW OF PROCUREMENT ACTIONS
BY
THE AGENCY CONTRACT REVIEW BOARD (ACRB)

I. Introduction

- A. This Procurement Note supersedes Procurement Note No. 61 which has been rescinded. It establishes criteria for presentation of procurement actions to the ACRB. Policy guidance on presentation of overruns to the Board, previously included in Procurement Note No. 49, is also included in this issuance since that Note has also been rescinded.

II. Regulation

- A. [] is in process of being revised. Said revision, while not through final coordination, has been approved by the DD/A and is implemented herewith. A draft copy of the revised regulation is attached hereto. Regulatory requirements included in the revised regulation are as follows:

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1. review approved procurement requests that concern contractual policy or procedure;
2. review any approved procurement request, proposed contract, or amendment in the scope of a contract that exceeds \$300,000 in valuation, plus other lesser value actions at the discretion of the contracting officer;
3. review overrun funding amendments when individual or collective overruns exceed \$45,000 and exceed 15 percent of the original cost estimates.

III. Waiver

- STATINTL A. [] provides that review by the Board of proposed contracts or classes of contracts may be waived by the Director of Logistics or his designee.

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The Chairman of the ACRB is hereby authorized to exercise the authority in [] to waive Board review. Waivers may be requested by completion and submittal of "Request for Procurement (Contract) Action" (Form No. 2863), which is required for all submittals to the Board. Waivers will be granted only in those cases in which it can be proven that operational requirements are of such urgency that time will not permit Board review. Waivers will be subject to post review by the Board at the discretion of its Chairman.

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- B. Contracts for items purchased from Federal Supply Schedule Contracts are waived from ACRB review regardless of dollar value.

IV. Sole Source Justification

- A. Procurements expected to total \$300,000 and planned on a sole source basis must be presented to the ACRB for review and approval of the sole source justification at the earliest possible stage of the procurement cycle. This review should occur immediately after approval by requirements offices at quarterly reviews or office procurement review boards and before obtaining a formal cost proposal, performing cost analysis, or making any commitment to the contractor. Approval of the sole source justification allows the procurement to proceed; however, unless a waiver is granted by the Chairman, the procurement would still be subject to final Board review in accordance with [] prior to contract execution.

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V. Technical Input

- A. As stated in [] the Board will not assume any operational, technological, or contractual responsibility. The Board is interested in and requests technical input on requirements only to the extent necessary to make intelligent decisions on the contractual aspects of the procurement action under review. Complete understanding of the requirement is necessary to determine whether (1) an item may properly be procured on a sole source basis, (2) the type of contract planned is consistent with the degree of technical risk, (3) follow-on procurement

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is contemplated which would mandate obtaining documentation which would allow competition and any other information necessary to insure that the procurement is being handled in accordance with applicable laws and regulations and good business practice.

VI. Schedule and Procedures

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- A. ACRB meetings are scheduled for the 2nd and 4th Wednesdays of each month at 1000 hours in Room 2C19 of the [REDACTED] Conflicts with holidays or other priorities may require schedule deviation. In such cases, the Chairman of the Board will provide the earliest possible notice to Board members and advisers.
 - B. Dockets with supporting documentation (eight copies) must be presented to the Procurement Management Staff in its ACRB Executive Secretariat role not later than noon on the Friday preceding the meeting at which the case is scheduled to be heard. Requests for waiver may be presented at any time.
 - C. The senior contracting officer for the cognizant procurement component may designate which of his/her personnel will present the case to the Board.
 - D. The branch chief or senior contracting officer for the cognizant procurement component should attend Board meetings at which his/her cases are being presented.
 - E. The COTR should accompany the contracting officer at Board hearings to assist in presentations.
 - F. Requests for waiver will be handled expeditiously, and approval or rejection of such requests will be provided within 48 hours of receipt by the Board Chairman.

VII. Documentation

- A. Form 2863 - Request for Procurement (Contract) Action - (CRB Docket and Action Summary)

Required for all requests for ACRB review and for requests for waiver. Requests for waiver must be identified in the "Brief of Facts and Issues" area. A full explanation must also be provided in this same area or in addenda memoranda as to the operational urgency mandating waiver and the date by which contract go-ahead must be provided to the contractor.

B. Completed Form 2420 or 88

1. This form is required by the Board and is important because it indicates approval of the action by cognizant line officials, a description of the supplies and/or services to be procured, classification information on various elements of the procurement, and funding approval.
2. On reviews of sole source justifications (paragraph IV above), it is recognized that the fully completed 2420 may not be available because of the early stage in the procurement cycle. When this is the case, the contracting team must provide requiring office documentation such as approved minutes of procurement review board meetings, quarterly reviews, or other data which indicate the intent and approval of the line office.

C. Cost/Price Analysis

1. Copies of cost/price analyses should accompany all Board dockets except initial sole source justifications required by paragraph IV above.
2. If operational urgency has not allowed time for a written cost/price analysis, thus resulting in a request waiver, the written cost/price analysis may be presented on an after-the-fact basis.

D. Contractor Proposal

Voluminous proposals are not required or desired by the Board; however, a copy of the work statement to be included in the contract or a precis thereof is helpful as is the accompanying DD Form 633.

E. Miscellaneous

1. Evidence of compliance with coordination requirements such as for ADPE is required where applicable.
2. Other information such as methodology used in preparation of bidder's lists, evaluation criteria used, scoring methods used in evaluating competitive proposals, use of best and final offers, composition of source selection committees or boards, etc., should be presented which will assist the Board in its review of the total procurement action.

VIII. Overruns

In the interest of economizing on the time expended in reviewing contractor overrun claims, the following procedural guidelines will be adhered to by contracting officers in preparing the Request for Procurement (Contract) Action, Brief of Facts and Issues:

1. Present those specific facts which the contractor asserts are relevant to its claim.
2. Present the particular contract clause(s) under which the contractor is claiming entitlement to the additional funds.
3. Present an analysis of the contractor's claim and state whether the contractor's position is compelling, arguable, or merely an appeal.
4. Propose a course of action for the Board's consideration. Where analysis concludes that the contractor has not complied with the terms of the contract, e.g., timely notice and thus has no legal basis for its claim, and the contracting officer is nevertheless convinced that relief should be granted, the proposed course of action should clearly

indicate that the contracting officer is recommending the use of his discretionary authority and should set forth the basis for such use.



JAMES H. McDONALD
Director of Logistics

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Proposed Revision of

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10. CIA CONTRACT REVIEW BOARD

a. GENERAL. The CIA Contract Review Board advises and assists the Director of Logistics in exercising the procurement authority delegated to him by the Director of Central Intelligence as Agency Head.

b. ORGANIZATION

- (1) The Board will consist of a chairman appointed by the Director of Logistics, a representative from each directorate appointed by the respective Deputy Director, a legal advisor appointed by the General Counsel, an audit advisor appointed by the Director of Finance, and a security advisor appointed by the Director of Security.
- (2) The Procurement Management Staff, Office of Logistics, will act as the executive secretariat and technical procurement consultant to the Board.

- (3) The Board will rely on the Procurement Management Staff, Office of Logistics, and the decentralized contracting teams within the various directorates for secretarial and clerical assistance and for reports, studies, and other information concerning aspects of the Agency procurement process.
- (4) Representatives from other Agency components may be invited to advise the Board on an ad hoc basis as appropriate.

c. RESPONSIBILITIES

- (1) The Board will:
 - (a) review approved procurement requests that concern contractual policy or procedures;
 - (b) review any approved procurement request, proposed contract, or amendment in the scope of a contract that exceeds \$300,000 in valuation plus other lesser value actions at the discretion of the contracting officer;

(c) review overrun funding amendments when individual or collective overruns exceed \$45,000 and exceed 15 percent of the original cost estimates;

(d) report at least every 6 months to the Director of Logistics regarding the procurement and contract actions reviewed by the Board and such other matters deemed appropriate by the Board and, at the request of a Deputy Director or the Director of Logistics, provide its recommendations on Agency-wide contract and procurement policies, procedures, and practices, including the procurement-unit concept.

(2) The Board may:

(a) recommend to the Director of Logistics organizational changes, including delegations of authority, assignment of functional workloads, and other changes designed to improve the efficiency of the

procurement activities of the Agency
(additionally, proposed organizational
changes may be submitted to the Board
by the Director of Logistics for its
consideration and recommendations);

- (b) with the concurrence of the Director of
Logistics, request from any cognizant
Agency unit informational reports con-
cerning various aspects of its procure-
ment process.

d. EXCEPTIONS

- (1) The Board will not assume any operational, techno-
logical, or contractual responsibility.
- (2) Review by the Board of proposed individual
contracts or classes of contracts may be waived
by the Director of Logistics or his designee.